

P-430, 421/CP-86-5 ORDER DENYING RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Certain
Subscribers in the Waconia Exchange for
Extended Area Service to the Minneapolis/St.
Paul Metropolitan Calling Area

ISSUE DATE: March 23, 1994

DOCKET NO. P-430, 421/CP-86-5

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PROCEDURAL HISTORY

On June 26, 1991, the Commission issued its ORDER CERTIFYING ELECTION RESULTS, DIRECTING INSTALLATION OF EXTENDED AREA SERVICE IN CERTAIN EXCHANGES, REQUIRING IMPLEMENTATION PLANS, AND CLOSING CERTAIN DOCKETS. Waconia, served by the United Telephone Company (United), was one of the exchanges for which extended area service (EAS) was ordered.

On November 19, 1991, the Commission issued its ORDER APPROVING STIMULATION STUDY METHODOLOGY, ESTABLISHING METRO CALLING AREA RATES, AND ESTABLISHING SETTLE UP PROCEDURE. As part of the settle up filing, the Order directed the affected telephone companies to study the actual call stimulation due to EAS for a period of one year after the EAS was installed. The Order directed the settle up filing, including the results of the stimulation study, to be filed within 90 days after the end of the scheduled conclusion of the stimulation study period.

On October 26 and 27, 1993, United, Vista Telephone Company (Vista), Eckles Telephone Company (Eckles), and US West Communications, Inc. (USWC) filed requests for a 45 day extension, until December 13, 1993 to make their settle up filings.

On November 15, 1993, the Commission issued an Order granting the companies an extension until December 13, 1993 to file their settle up filings.

On December 10, 1993, staff from the Commission and the Minnesota Department of Public Service (the Department) met with representatives of the companies to review the results of the stimulation studies. At that meeting, the companies requested that the Commission establish the stimulation factor to be used in the settle up filings prior to the submission of those filings and that an extension to make those filings be provided. Specifically, the companies have requested a stimulation factor of 4 for use in their settle up filings and 45 days from the date of the Commission Order to make such filings.

On January 27, 1994, the Commission issued its ORDER APPROVING STIMULATION FACTOR FOR SETTLE UP FILING in this matter. The Commission found that a stimulation factor of 4 was appropriate for the Waconia exchange.

On February 16, 1994, the Department requested reconsideration of the stimulation factor in this and three other related dockets. The Department argued that the stimulation factor should be 2.

On February 24, 1994, the Department filed a correction to its February 16 filing. The Department stated that an assertion contained in its petition for reconsideration (that Vista had not installed all the facilities needed to meet the need projected by the authorized stimulation factor) was in error.

On March 8, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Introduction

The Department asked the Commission to reconsider its January 27, 1994 Order setting the stimulation factor at 4 because:

- Dial Service rules require adequate facilities
- Actual installations do not reflect cost studies

B. Evaluation of the Department's Arguments

1. Sole Reliance on the Dial Service Requirements Rule is Inappropriate in the EAS Context

Minn. Rules, part 7810.5300 requires companies to provide facilities adequate to provide dial tone within 3 seconds on 98 percent of calls. The rule further provides that at least 97 percent of telephone calls must be completed without receiving an all-trunks busy signal due to incapacity within the central office.¹

According to the Department, the number of circuits included in a cost study for EAS does not determine whether the company will actually build the entire number of circuits. Network design is a dynamic process which adds capacity as needed. Networks are engineered based on routine monitoring of central office capacity. When a company finds that its capacity is inadequate, it simply adds facilities.

The Department argued that establishing the stimulation factor at 4 will require ratepayers to pay for unneeded facilities that guarantee no company's needs will exceed the stimulation factor. Under the EAS statute, EAS rates are to be based on "specific additional cost incurred." Using a factor of four will overstate the growth rate and lead to EAS rate additives in violation of the income neutrality requirements of the statute. Such rates, according to the Department, would be unjust and unreasonable.

Commission Analysis

According to the Department, the Commission can safely set the stimulation factor lower than 4 because the companies' compliance with the rule would ensure adequate service.

The Commission finds that, in the face of anticipated usage growth due to EAS, the dial service requirements rule is not the best means of ensuring continuous adequate service. As a practical matter, it is more likely that the rule would result in corrective action for inadequate service only *after* that inadequacy has occurred. For example, the rule simply states that dial tone delays of more than 2.6 percent of calls *on a continuing basis* indicates a need for investigative or corrective action.

By contrast, adoption of an appropriate stimulation factor and installing facilities to meet the

¹ The *all-trunks busy* signal is a distinctive sound, easily distinguished from the more commonly encountered *line-is-busy* signal. The *all-trunks busy* signal indicates that at the moment the call is placed there is insufficient capacity on the network to carry the call to its destination. By contrast, the *line-is-busy* signal indicates that the phone at the number called is engaged or is, for whatever other reason, "off hook."

demand projected using that stimulation factor are preemptive measures calculated to ensure uninterrupted adequate service.

A further problem with the Department's approach is that network expansion which was required to meet EAS stimulated growth would not be paid for through EAS rates. This contradicts a basic principle of the EAS statute, that EAS costs should be recovered from those benefiting from the EAS, i.e. through EAS rates.

2. Assertion That Companies Do Not Build to Meet the Projected Demand is Unsubstantiated

In its petition for reconsideration, the Department stated that none of the companies provided evidence indicating that EAS facilities are always installed to mirror the facilities requirements included in the cost studies. The Department asserted that the stimulation factor adopted for determining EAS additives does not necessarily affect the actual number of circuits which the telephone company will immediately add. To bolster this assertion, the Department cited a response provided by Vista to a Department information request. Based on its interpretation of Vista's response, the Department suggested that the company was simply collecting rates based on a larger system but not actually providing that system.²

Commission Analysis

The Commission finds no reason to believe that the companies fail to install facilities to meet the projected demand. In a follow-up filing, the Department clarified that its interpretation of Vista's response was in error and that the company apparently had not underbuilt. Thus, the only example of underbuilding alleged by the Department has been withdrawn. At the same

² The Department later clarified that its interpretation of Vista's response was in error and that the company apparently had not underbuilt.

time, the Minnesota Telephone Association (MTA) has stated for the record that actual facilities built for EAS do indeed equal the estimates included in cost studies.

In short, the Commission disagrees with the Department's suggestion that the stimulation factor adopted and the number of circuits included in a cost study for EAS do not result in the company actually building the entire number of circuits. The companies understand and, to all reports to date, appear to have complied with the Commission's expectation that they actually construct the facilities whose costs they have been authorized to recover in EAS rates.

However, as the Commission noted in the Order now under reconsideration, it is expected that the Department will bring any actual instances of this to the Commission's attention with a recommendation to reduce rates as the situation warrants.

Order at p. 4.

C. Commission Action

Based on its analysis of the Department's arguments for reconsideration, the Commission finds no reason to alter its decision to adopt a stimulation factor of 4 for this exchange. Furthermore, upon review the Commission finds that the reasoning set forth in support of that decision in the January 27, 1994 Order is sound. Accordingly, the Commission will deny the Department's petition and reaffirm its January 27, 1994 Order in this matter.

ORDER

1. The petition filed by the Minnesota Department of Public Service (the Department) requesting reconsideration of the Commission's January 27, 1994 Order in this matter is denied.
2. Within 45 days of the date of this Order, United, Vista, GTE-Minnesota, Scott Rice, USWC and Eckles shall file their settle up filing in this docket using a stimulation factor of 4.
3. Within 45 days of the companies' filings, the Minnesota Department of Public Service (the Department) shall file its comments on those filings.
4. Parties shall have 20 days to file final comments.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)